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6 **UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF NEVADA**

8 IN RE:

9 RONNIE C. MCKINNEY, and JOAN E.
10 MCKINNEY aka JOAN BLAKE,

11 Debtors
12 -----

13 SETERUS, INC.,

14 Appellant

15 v.
16

17 RONNIE C. MCKINNEY, and JOAN E.
18 MCKINNEY aka JOAN BLAKE,

19 Appellees

Appeal Reference #: 19-07

USDC Case No.: 3:19-cv-00089-LRH

Bk. Case No.: 10-50597-BTB

Appeal from the United States Bankruptcy
Court for the District of Nevada

**STIPULATION AND ORDER TO
CONTINUE BRIEFING SCHEDULE**

[First Request]

20
21 Appellant, Seterus, Inc. and Appellees, Ronnie C. McKinney and Joan E. McKinney aka
22 Joan Blake (collectively the “Parties”), by and through they undersigned attorneys of record,
23 hereby submit the following Stipulation and Order to continue briefing schedule.

- 24 1. This is the Parties’ first request for the extension after the Court issued the Minute Order
25 (“Order”) on February 19, 2019 [ECF No. 2] and is submitted in good faith and not
26 intended to cause any delay to the Court.
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2. On April 10, 2019 this Court issued its minute order setting its briefing schedule, with the opening brief due on April 24, 2019. The underlying proceeding took six days of testimony and hundreds of pages of relevant documents.
3. This appeal arises from Seterus, Inc.'s Notice of Appeal [Doc. 249] filed February 14, 2019 from the "Order Regarding Amended Motion for Contempt" [Doc. 243] and is assigned Appeal Reference No. 19-07 and Case No. 3:19-cv-00089-LRH
4. Seterus, Inc. also filed a Notice of Appeal [Doc. #280] arises from the "Order Granting Motion for Attorney's Fees and Costs Against Seterus, Inc." [Doc. #270]. That appeal is assigned Appeal Ref. No. 19-14 and Case No. 3:19-cv-00187MMD.
5. On April 23, 2019, Appellant filed its motion to consolidate the two appeals. A courtesy copy is attached as **Exhibit A**. Both appeals arise from the same proceeding, two different motions. As both orders were rendered in the same proceeding, the matters should be consolidated, thereby saving judicial resources and the parties' time and resources. The appeal will otherwise address many of the same issues with the latter appeal based on the reasons set forth in the original appeal.
6. The parties stipulate to move the briefing schedules out until after the Court has ruled on the Motion, with the parties proposing new briefing dates beginning in 3-4 weeks from today, as the court so directs.
7. The opening brief in the related proceeding, Appeal Ref. #19-14 is due on May 17, 2019.
8. The parties have not previously sought an extension of time for briefing.

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WHEREFORE, the parties so stipulate and agree.

DATED this 16th day of May, 2019.

DATED this 16th day of May, 2019.

WRIGHT, FINLAY & ZAK, LLP

/s/ Edgar C. Smith

Edgar C. Smith, Esq.

Nevada Bar No. 5506

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Attorneys for Appellant, Seterus, Inc.

/s/ Christopher P. Burk

Christopher P. Burke, Esq.

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*Attorney for Appellees, Ronnie C. McKinney
and Joan E. McKinney aka Joan Blake*

Case No. 3:19-cv-00089-LRH

ORDER

The Court, having considered the Stipulation of the Parties, and good cause appearing;
Ordered, the current briefing schedule is vacated, pending a ruling on the Motion to
Consolidate. Opening Brief in the instant appeal shall be filed and served June 24, 2019,
with the Answering Brief to be filed and served July 24, 2019 and the Reply Brief to be filed
and served August 5 2019.

IT IS SO ORDERED.

Dated this 21st day of May, 2019


HON. LARRY R. HICKS

UNITED STATES DISTRICT COURT JUDGE

EXHIBIT LOG

Exhibit A	Motion to Consolidate
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Exhibit A: Motion to Consolidate

Exhibit A: Motion to Consolidate

1 WRIGHT, FINLAY & ZAK, LLP
2 Edgar C. Smith, Esq.
3 Nevada Bar No. 5506
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8 *Attorneys for Appellant Seterus, Inc.*

6 **UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF NEVADA**

8 IN RE:

9 RONNIE C. MCKINNEY, and JOAN E.
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18 MCKINNEY aka JOAN BLAKE,

19 Appellees

Appeal Reference #: 19-07

District Court Case #: 3:19-cv-00089

Bk. Case No.: 10-50597-BTB

Appeal from the United States Bankruptcy
Court for the District of Nevada

**MOTION TO CONSOLIDATE
APPEALS AND TO EXTEND TIME FOR
FILING OPENING BRIEF**

20 Appellant Seterus, Inc., by and through their attorney of record, Edgar C. Smith, Esq. of
21 the law offices of Wright, Finlay & Zak, LLP, moves to consolidate two related appeals from
22 orders entered by Hon. Bruce T. Beesley of the United States Bankruptcy Court, District of
23 Nevada and grant Appellant an extension of time to file the Opening Brief, based on the
24 following:
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MOTION TO CONSOLIDATE

1. On February 1, 2019, the Bankruptcy Court filed the “Order Regarding Amended Motion for Contempt, Motion for Sanctions for Violation of the Automatic Stay, Motion for Sanctions for Violation of the Discharge Injunction, Motion for Damages for Creditor Misconduct” [Doc. #243]. Seterus timely filed its Notice of Appeal on February 15, 2019. Seterus elected to have the appeal heard in the United States District Court, District of Nevada and the case has been assigned Case No. 3:19-cv-00089 [Appeal #19-07].
2. On March 20, 2019, the Bankruptcy Court filed the “Order Granting Motion for Attorney Fees and Costs Against Seterus, Inc.” [Doc. #270]. Seterus timely filed its Notice of Appeal on April 4, 2019 and the case has been assigned Case No. 3:19-cv-00187, the instant case [Appeal #19-14]
3. Although the orders were issued on separate dates, both appeals arise out of the same underlying bankruptcy proceeding, the Debtors’ motion to seek sanctions against Appellant. The basis for the second order [Doc. #270] is found in the first [Doc. #243] wherein the Bankruptcy Court held, *inter alia*, that Debtors should file a separate motion for attorney’s fees. The appeals share a nearly identical procedural and factual history.
4. Because these appeals are closely related, the second appeal [#19-14] should be designated as a companion case to the first, and its case no. reassigned to the first, so that the appeals may be heard by the same district court judge.
5. For these reasons, Seterus, Inc. respectfully submits that a consolidation of these appeals into one district court case is appropriate. Because of the significant factual,

1 procedural and legal overlap on the issues appealed, it would create efficiencies for
2 the parties, eliminate the risk of conflicting outcomes, and would create efficiencies
3 for the parties and reduce the burden on the district court and its staff.

- 4 6. Among other things, consolidation will (i) allow each of the parties to the appeal to
5 file one comprehensive appeal brief rather than attempting to file separate briefs, (ii)
6 simplifies procedures for motion filing and oral argument, and (iii) reduce needless
7 waste and duplication of effort.
8

9 **MOTION TO EXTEND TIME FOR FILING BRIEFS**

10 Appellant Seterus, Inc. by and through their attorney of record, Edgar C. Smith, Esq. further
11 moves the Court for an order vacating the current briefing schedule until after the within Motion
12 is ruled upon, and re-set the briefing schedule for not less than thirty (30) days from entry of the
13 order on this Motion.
14

- 15 1. No previous extensions have been requested.
16 2. This court has the authority to issue procedural orders relating to appeals from the
17 bankruptcy court under Fed. R. Bankr. P. 8013(b).
18 3. On April 10, 2019, this Court issued a briefing schedule so that Appellant's Opening
19 Brief must be filed by April 24, 2019. This Motion is brought before the time Appellant
20 must file its brief.
21 4. Seterus, Inc. has filed its designation of record and statements of issue on appeal in both
22 appellate proceedings.
23 5. If the court grants consolidation, a new briefing schedule should issue, as the procedural
24 posture of both appeals will be substantially changed, and Appellant's Motions will be
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1 moot if the deadline is not changed, as the Opening Brief will be due before or near the
2 date the Court determines whether consolidation is appropriate.

3 6. The evidentiary hearing in this case took six (6) days to complete, and involved the
4 testimony of numerous witnesses and two experts. The exhibits in this case cover
5 thousands of pages.

6
7 7. Because this Motion presents no novel issues of law, Seterus, Inc. requests that this Court
8 waive the filing of a brief.

9 This Motion is brought pursuant to Fed. R. Bankr. Proc. Rule 8018(a) and Fed. R. App. Proc.
10 Rule 27(a).

11
12 Dated: April 23, 2019

Wright, Finlay & Zak, LLP

13 /s/ Edgar C. Smith

14 Edgar C. Smith, Esq.

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17 esmith@wrightlegal.net

18 *Attorney for Ocwen Loan Servicing, LLC*

19
20 **CERTIFICATE OF SERVICE**

21 I HEREBY CERTIFY that I am an employee of WRIGHT, FINLAY & ZAK, LLP and
22 that I electronically served on the 23rd day of April, 2019, the foregoing **MOTION TO**
23 **CONSOLIDATE APPEALS AND TO EXTEND TIME FOR FILING OPENING BRIEF**
24 to all parties and counsel as identified on the Court-generated Notice of Electronic Filing.

25
26
27 /s/ Tonya Sessions

28 An Employee of WRIGHT, FINLAY & ZAK, LLP